

## FORTY-FIFTH DAY

(Tuesday, March 28, 1939)

The House met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Morse.

The roll of the House was called, and the following Members were present:

Mr. Speaker	Goodman
Allen	Gordon, Mrs.
Allison	Hale
Alsup	Hamilton
Anderson	Hankamer
Bailey	Hardeman
Baker	Hardin
of Fort Bend	Harp
Baker of Grayson	Harper
Bell	Harrell of Bastrop
Blankenship	Harrell of Lamar
Bond	Harris
Boyd	Hartzog
Boyer	Heflin
Bradbury	Holland
Bradford	Howard
Bray	Howington
Bridgers	Hull
Broadfoot	Hunt
Brown of Cherokee	Isaacks
Brown	Johnson of Ellis
of Nacogdoches	Johnson of Tarrant
Bundy	Keith
Burkett	Kennedy
Burney	Kern
Cauthorn	Kerr
Celaya	Kinard
Chambers	King
Clark	Langdon
Cleveland	Lehman
Cockrell	Leonard
Coleman	Leyendecker
Colquitt	Little
Colson, Mrs.	Lock
Cornett	Loggins
Corry	London
Crossley	Mays
Daniel	McAlister
Davis of Jasper	McDaniel
Davis of Upshur	McDonald
Dean	McFarland
Derden	McMurry
Dickison	McNamara
Dickson	Mohrmann
Donaghey	Monkhouse
Dwyer	Montgomery
Faulkner	Morris
Felty	Newell
Ferguson	Nicholson
Fielden	Oliver
Fuchs	Pace
Galbreath	Petsch
Gilmer	Pevehouse

Piner	Stinson
Pope	Stoll
Ragsdale	Talbert
Reader of Bexar	Tarwater
Reader of Erath	Taylor
Reaves	Tennant
Reed	Thornberry
Rhodes	Thornton
Riviere	Turner
Roach	Vale
Roberts	Vint
Robinson	Voigt
Russell	Waggoner
Schuenemann	Weldon
Segrist	Wells
Shell	Westbrook
Skiles	White
Smith of Frio	Wilson
Smith of Hopkins	Winfree
Smith	Wood
of Matagorda	Worley
Spencer	Wright

## Absent—Excused

Dowell	Kersey
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A quorum was announced present.

Prayer was offered by Hon. John E. Roach of Kaufman County, as follows:

"Our Heavenly Father, we thank Thee for our privileges and opportunities. Thou has been our dwelling place in all generations, and in Thee and Thy law and Thy love we live and move and have our being. On the threshold of this new day, grant that we may enjoy Thy presence and that Thou wilt direct us in all of our doings. Help us to know Thy will and help us to be able and willing to do Thy will. Bless us in our relations to each other, to our guests in the galleries, to our employees and to our constituency all over the State.

"Bless our Chaplain on his mission of sorrow, with Thy most gracious mercy and tender compassion, we pray in Jesus' name."

## LEAVE OF ABSENCE GRANTED

The following Member was granted leave of absence on account of illness:

Mr. Kersey for today, on account of illness in his family, on motion of Mr. Crossley.

## BILLS ORDERED NOT PRINTED

On motion of Mr. Leonard, Senate Bill No. 107 was ordered not printed.

On motion of Mr. Talbert, Senate Bill No. 216 was ordered not printed.

On motion of Mr. Dickison, Senate Bill No. 325 was ordered not printed.

On motion of Mr. London, House Bill No. 876 was ordered not printed.

On motion of Mr. Blankenship, House Bill No. 909 was ordered not printed.

On motion of Mr. Boyd, Senate Bill No. 286 was ordered not printed.

#### ADDITIONAL SIGNERS OF BILL AND RESOLUTION

Mr. Riviere was authorized to sign House Bill No. 489, as co-author of same.

Mr. Hull and Mr. McAlister were authorized to sign House Joint Resolution No. 8, as co-authors of same.

#### MOTION TO RE-REFER HOUSE BILL NO. 578

Mr. Corry moved that House Bill No. 578 be withdrawn from the Committee on State Affairs and referred to the Committee on Education.

The motion was lost.

#### BILLS RE-REFERRED

Mr. White moved that House Bill No. 895 be withdrawn from the Committee on Judiciary and referred to the Committee on Criminal Jurisprudence.

The motion prevailed.

Mr. Morris moved that House Bill No. 729 be withdrawn from the Committee on Livestock and Stock Raising, and referred to the Committee on Criminal Jurisprudence.

The motion prevailed.

#### RELATIVE TO HOUSE BILL NO. 402

Mr. Bell was authorized to substitute his name as author of House Bill No. 402 in place of Mr. Olsen, deceased.

#### REQUESTING INFORMATION OF CERTAIN STATE DEPARTMENTS

Mr. Harris offered the following resolution:

H. S. R. No. 191, Requesting information of certain State departments.

Whereas, Before a convention of the Texas and Southwestern Cattle Raisers Association in Houston recently, Governor O'Daniel in a public speech

said that in his efforts to check up on State Departmental expenditures and efficiency, one or more departments "slammed the door in his face;" and

Whereas, Since such action as this shows disrespect for the Governor, and indirectly to the Legislature, since the Legislature is seriously concerned with cost of government; and

Whereas, We fully realize there must be cooperation by the Legislature, the Departments and Governor's office to accomplish public welfare; therefore, be it

Resolved, That the Texas House of Representatives now expresses its regret at such a deplorable condition and respectfully suggests to Governor O'Daniel that he disclose to us the identity of one or all Departments which showed him this discourtesy and denied him important information.

The resolution was read second time.

Mr. Hardin moved to refer the resolution to the Committee on State Affairs.

Mr. Harris moved to table the motion to refer.

The motion to table prevailed.

Mr. Hardin moved to table the resolution.

The motion to table was lost.

Mr. Wood offered the following amendment to the resolution:

Amend the resolving clause of House Simple Resolution No. 191, by striking out all reference to the House of Representatives, and insert in lieu the "Appropriation Committee."

Mr. Keith moved the previous question on the pending amendment and the resolution, and the main question was ordered.

Question then recurring on the amendment by Mr. Wood, it was lost.

Question then recurring on the resolution by Mr. Harris, yeas and nays were demanded.

The resolution was adopted by the following vote:

Yeas—79

Allen	Brown
Allison	of Nacogdoches
Baker	Bundy
of Fort Bend	Burney
Bell	Cauthorn
Boyd	Clark
Bradbury	Cockrell
Bridgers	Cornett

Crossley	McMurry
Davis of Jasper	McNamara
Davis of Upshur	Mohrmann
Derden	Montgomery
Dickson	Morris
Faulkner	Newell
Felty	Piner
Ferguson	Pope
Galbreath	Reader of Bexar
Gilmer	Reader of Erath
Goodman	Reed
Hale	Riviere
Harp	Roberts
Harper	Robinson
Harrell of Bastrop	Russell
Harris	Segrist
Holland	Smith of Frio
Hunt	Smith of Hopkins
Isaacks	Smith
Johnson of Ellis	of Matagorda
Johnson of Tarrant	Spencer
Keith	Stoll
Kennedy	Tarwater
Kern	Thornberry
Kerr	Vint
King	Voigt
Langdon	Weldon
Little	Wells
Lock	White
Loggins	Wilson
London	Winfree
Mays	Worley
McFarland	Wright

## Nays—50

Alsup	Hull
Anderson	Kinard
Bailey	Lehman
Baker of Grayson	Leonard
Blankenship	Leyendecker
Boyer	McAlister
Bradford	McDaniel
Brown of Cherokee	McDonald
Burkett	Monkhouse
Chambers	Nicholson
Cleveland	Pace
Coleman	Petsch
Colquitt	Pevehouse
Corry	Rhodes
Daniel	Roach
Dean	Schuenemann
Donaghey	Shell
Dwyer	Stinson
Fielden	Taylor
Gordon, Mrs.	Tennant
Hamilton	Thornton
Hankamer	Turner
Hardin	Vale
Harrell of Lamar	Waggoner
Howington	Wood

## Present—Not Voting

Reaves

## Absent

Bond	Hartzog
Bray	Heflin
Broadfoot	Howard
Celaya	Oliver
Colson, Mrs.	Ragsdale
Dickison	Skiles
Fuchs	Talbert
Hardeman	Westbrook

## Absent—Excused

Dowell Kersey

(Mr. Thornton in the Chair.)

### REQUESTING SUPREME COURT TO PROMULGATE CERTAIN DISTRICT COURT RULE

The Chair laid before the House, for consideration at this time,

H. C. R. No. 58, Requesting Supreme Court to promulgate certain District Court Rule.

The resolution having heretofore been read second time and referred to the Committee on Judiciary.

The Committee on Judiciary having recommended the adoption of the resolution.

The resolution was then adopted.

(Speaker in the Chair.)

### MEMORIALIZING CONGRESS IN REGARD TO THE FARM FORESTRY ACT

Mr. Bundy offered the following resolution:

H. C. R. No. 69, Memorializing Congress in regard to the Norris-Doxey Cooperative Farm Forestry Act.

Be It Resolved by the House of Representatives of the State of Texas, the Senate concurring:

Whereas, Windbreaks and shelterbelts composed of trees are of great value to Texas agriculture, because such tree strips protect crops from destruction by hot winds, prevent removal of topsoil by wind and water erosion, aid in holding snow on the land, in the reduction of evaporation and consequently the conservation of soil moisture; diminish fuel and feed requirements; supply fuel and fence posts; and shelter for game birds and birds that consume crop-destroying insects; and

Whereas, The Congress under the Cooperative Farm Forestry Act (Norris-Doxey law of 1937), recog-

nized the importance and value of shelterbelts and farm forests and authorized an annual Federal appropriation of Two Million, Five Hundred Thousand (\$2,500,000.00) Dollars for the establishment of such forestry plantations, shelterbelts, and for the extension of educational work, but for which no money has as yet been definitely appropriated; and

Whereas, The shelterbelt work under the Prairie States forestry project to date has been carried out wholly as a work-relief measure, which may be discontinued unless Congress decides to make a definite appropriation available under the Cooperative Farm Forestry Act; now, therefore, be it

Resolved, That Congress be, and is hereby, memorialized and requested to make the appropriation of the full Two Million, Five Hundred Thousand (\$2,500,000.00) Dollars authorized under the Norris-Doxey Cooperative Farm Forestry Act; and, be it further

Resolved, That copies of this memorial be forwarded by the Governor of the State of Texas to the Secretary of State of the United States at Washington, D. C., and to the Vice-President of the United States as presiding officer of the United States Senate, and to the Speaker of the House of Representatives of the United States.

The resolution was read second time, and was adopted.

#### AUTHORIZING CERTAIN CORRECTION IN HOUSE BILL NO. 711

Mr. McMurry offered the following resolution:

H. C. R. No. 70, Authorizing certain correction in House Bill No. 711.

Whereas, House Bill No. 711 has passed the House and Senate; and

Whereas, The words "according to the last preceding Federal Census" were inadvertently omitted from said bill; now, therefore, be it

Resolved by the House of Representatives, the Senate concurring, That the Enrolling Clerk of the House be authorized and directed to insert the words "according to the last preceding Federal Census" in Section 1, line 4, between the words "inhabitants" and "the salary".

The resolution was read second time, and was adopted.

#### TO GRANT PERMISSION TO SUE THE STATE

Mr. Harp offered the following resolution:

H. C. R. No. 72, To grant L. L. White permission to sue the State.

Whereas, During the year 1937, the State Highway Department of Texas constructed a series of terraces leading from the drainage ditches on State Highway Number 4, in Childress County, on and across an adjacent tract of land to a certain tract of farm land owned by L. L. White, thereby diverting the water that normally flowed down the borrow ditches of said Highway Number 4 to cause the said water to flow over and across the land owned by the said L. L. White, thereby seriously damaging said land in respect of its value and for farm purposes; and

Whereas, The said L. L. White has never been compensated for the damage and injury to his property aforesaid; now, therefore, be it

Resolved by the House of Representatives, the Senate concurring, That the said L. L. White, his heirs, executors and administrators, be, and they are hereby granted permission to bring suit against the State of Texas and the Highway Commission of Texas, in a court of competent jurisdiction in Childress County, Texas, in order to ascertain, fix and award the amount of money, if any, the said L. L. White, his heirs, executors and administrators are entitled to receive from the State of Texas and the Highway Commission of Texas, as compensation for the injury and damage to his property by reason of the construction of the said terraces and the diverting of the water over and across his land, as aforesaid; and that in case that suit be filed, service of citation or other necessary process therein shall be upon the Attorney General of Texas, and such service shall have the same force and effect as service in civil cases in the manner prescribed by law; and any judgment that may be finally established against the State of Texas and the Highway Commission of Texas in said suit shall be and constitute a liquidated debt and shall be paid by the Highway Commission of Texas out of the State Highway Fund.

The resolution was read second time, and was referred, by the Speaker, to the Committee on State Affairs.

### TO GRANT PERMISSION TO SUE THE STATE

Mr. Coleman offered the following resolution:

H. C. R. No. 73, To grant R. O. Drake permission to sue the State.

Whereas, On the 18th day of March, 1938, R. O. Drake of Madison County, Texas, was driving on State Highway No. 21; and

Whereas, Mr. A. B. Standback, an employee of the State Highway Department, was operating and driving an automobile at a high rate of speed on said highway, and negligently and carelessly ran into a wagon that the said R. O. Drake was riding in; and

Whereas, The said R. O. Drake received injuries which has caused permanent disability; and

Whereas, The said R. O. Drake has not been compensated by the State Highway Department for said injuries and has been compelled to expend sums of money trying to cure and restore his health; now, therefore, be it

Resolved by the House of Representatives, the Senate concurring, That said R. O. Drake be, and he is hereby granted permission to bring suit against the State of Texas and the State Highway Department in a court of competent jurisdiction, to wit; in the District Court of Madison County, Texas, in order to determine compensation for damages received, and the said State Highway is hereby directed, in the event a judgment is recovered in any court of competent jurisdiction, to pay said judgment out of any fund in said Highway Department and that service of citations or the necessary process may be had upon the State of Texas by delivering a copy of the said pleading thereto to the Honorable Robert Lee Bobbitt, Chairman of the State Highway Commission of the State of Texas, as in other civil cases.

The resolution was read second time, and was referred, by the Speaker, to the Committee on State Affairs.

### MEMORIALIZING CONGRESS TO TAKE NECESSARY ACTION TO PROTECT COTTON GROWERS OF THE SOUTH

Mr. Tarwater offered the following resolution:

H. C. R. No. 71, Memorializing the United States Congress to take action

necessary to protect the Cotton Growers of the South.

Whereas, The State of Texas produces one-third of the cotton of the United States, and cotton is the money crop relied upon by approximately 1,750,000 people in this State; and

Whereas, The Congress of the United States now has under consideration numerous amendments to the General Farm Bill of 1938, these amendments covering a wide scope; and

Whereas, The Forty-sixth Session of the Texas Legislature is keenly alive to the Agricultural welfare of the State in general, and of the cotton producers in particular, and now that the planting season for the cotton producer in Texas is near at hand and already present in some sections; and

Whereas, The continued production of cotton in the State of Texas for shipments to the World markets, as well as for domestic consumption, is necessary for the welfare of the cotton farmers and for the people of this State and the Nation as a whole; and

Whereas, It is very essential that our foreign markets for cotton be regained, if possible, in order to accomplish this, different amendments to the Agricultural Adjustment Act of 1938 are being proposed in Congress; and such proposals of necessity requires that cotton be produced in the United States under such conditions as will enable the United States to sell such cotton at whatever price the world market will be. For the cotton farmers of the United States to so produce cotton, it is absolutely necessary that they be given subsidy payments as an approach to parity on such an amount of cotton as may be consumed domestically and sold abroad; now, therefore, be it

Resolved by the House of Representatives, the Senate concurring, That the Legislature respectfully requests the Congress of the United States to speedily appropriate sufficient money to make effective the subsidy and parity payments provided for in the Agricultural Adjustment Act of 1938 and to pay the cotton farmers a subsidy which will enable them to produce cotton to be sold on the world market, and give the cotton farmers of this country the same advantages as are given to the corn and

wheat producers of the United States; and, be it further

Resolved, That copies of this resolution be sent to Members of Congress from Texas, and to the Secretary of Agriculture of the United States Department of Agriculture.

TARWATER,  
RAGSDALE,  
FUCHS.

The resolution was read second time, and was adopted.

#### EXTENDING AN INVITATION OF THE HOUSE

Mr. Heflin offered the following resolution:

H. S. R. No. 193, Extending an invitation to appear before the House.

Whereas, A committee from the Salesmanship Club of Houston is coming to Austin to extend an invitation to the Members of the Forty-sixth Legislature to attend their annual Gridiron Dinner; and

Whereas, This is one of the outstanding meetings of the Club; now, therefore, be it

Resolved, That the committee be invited to appear before the House at such a time as may be selected by the Speaker to extend an invitation to the membership.

The resolution was read second time, and was adopted.

#### HOUSE BILL NO. 851 ON SECOND READING

Mr. Tennant moved that the necessary rules, be suspended, for the purpose of taking up and considering, at this time, House Bill No. 851.

The motion prevailed by the following vote:

Yeas—109

Allison	Celaya
Alsup	Cleveland
Anderson	Coleman
Bailey	Colquitt
Bell	Colson, Mrs.
Blankenship	Corry
Bond	Crossley
Boyer	Daniel
Bradbury	Davis of Upshur
Bradford	Derden
Bray	Dickison
Brown of Cherokee	Dickson
Brown	Donaghey
of Nacogdoches	Dwyer
Bundy	Faulkner
Burkett	Felty

Ferguson	Montgomery
Fielden	Newell
Fuchs	Nicholson
Galbreath	Oliver
Gordon, Mrs.	Pace
Hamilton	Petsch
Hankamer	Pevehouse
Hardeman	Pope
Hardin	Reader of Bexar
Harp	Reader of Erath
Harper	Reed
Harrell of Bastrop	Rhodes
Harrell of Lamar	Riviere
Harris	Roach
Hartzog	Roberts
Heflin	Robinson
Howard	Russell
Hull	Schuenemann
Hunt	Segrist
Isaacks	Skiles
Johnson of Ellis	Smith of Frio
Johnson of Tarrant	Smith
Kennedy	of Matagorda
Kern	Spencer
Kinard	Stinson
King	Talbert
Langdon	Tarwater
Lehman	Taylor
Leonard	Tennant
Leyendecker	Thornton
Little	Turner
Lock	Vale
Loggins	Vint
London	Voigt
McAlister	White
McDaniel	Wilson
McDonald	Wood
McFarland	Worley
McMurry	Wright
Monkhouse	

Nays—23

Allen	Mays
Baker of Grayson	McNamara
Boyd	Morris
Burney	Piner
Cauthorn	Reaves
Chambers	Smith of Hopkins
Cockrell	Stoll
Cornett	Waggoner
Hale	Weldon
Holland	Wells
Howington	Westbrook
Keith	

Absent

Baker	Goodman
of Fort Bend	Kerr
Bridgers	Mohrmann
Broadfoot	Ragsdale
Clark	Shell
Davis of Jasper	Thornberry
Dean	Winfree
Gilmer	

Absent—Excused

Dowell

Kersey

The Speaker then laid before the House, on its second reading and passage to engrossment,

H. B. No. 851, A bill to be entitled "An Act amending Section 20 of Chapter 76 of the Acts of the Forty-fourth Legislature, Regular Session of 1935, as amended by Section 1 of Chapter 15 of the Acts of the Forty-fifth Legislature, Regular Session of 1937, so as to provide for the termination of the Act on September 1, 1941; providing all other Sections of the Act shall remain in full force and effect; providing all offenses, liabilities, penalties or forfeitures, civil or criminal incurred because of violation of said Act shall be instituted and proceeded with in all respects as if said Section 20 had read in its original enactment the same as provided for in this Act; providing the procedure prescribed in said Chapter 76 shall be followed in all prosecutions and suits now pending or hereafter instituted, and declaring an emergency."

The bill was read second time.

Mr. Derden moved that House Bill No. 851 be laid on the table subject to call.

The motion was lost.

Mr. Mays offered the following amendment to the bill:

Amend House Bill No. 851, by adding a new Section to be known as Section 1a:

"In all oil fields that extend across State lines the proration schedule or allowable per well in Texas shall in no event be cut below that allowed per well in adjoining States."

On motion of Mr. Nicholson, the amendment was tabled.

Mr. Bond offered the following amendment to the bill:

Amend House Bill No. 851, by adding two new Sections to be numbered Sections 2a and 2b, to read as follows:

"Sec. 2a. Section 2, of Chapter 2, of the Acts of the Forty-second Legislature, Fourth Called Session of 1932, as amended by Section 3, of Chapter 76, of the Acts of the Forty-fourth Legislature, Regular Session of 1935, is hereby amended to read hereafter, as follows:

"Sec. 2. The Commission shall have authority to make any rule, regula-

tion or order, or in any wise determine or hold that any mode, manner or process of refining crude petroleum oil constitutes waste if done in excess of market requirements.

"Nothing in this Act shall be construed as granting to the Commission any power or authority to restrict, or in any manner limit the drilling of wells for the purpose of exploring for crude petroleum oil or natural gas or both in territory not known to produce either such oil or gas.

"The Commission shall not, under the terms of subdivision (j) of Section 2 hereof, restrict the production of crude petroleum oil from any new field brought into production by such exploration until the total production therefrom aggregates ten thousand (10,000) barrels of crude petroleum oil per day, provided, however, the Commissioner's power to restrict the production from such new field under the remaining subdivisions of said Section 2 shall not be affected or limited by this paragraph.

"Sec. 2b. The fact that by reason of the provisions of Section 20, of Chapter 76, Acts of the Forty-fourth Legislature, Regular Session of 1935, as amended by Section 1, of Chapter 15, Acts of the Forty-fifth Legislature, Regular Session of 1937, the general and most important provisions of the oil and gas conservation laws of this State as contained in said Chapter 76, of the Acts of the Forty-fourth Legislature, Regular Session of 1935, are made to expire on September 1, 1939, and that accordingly the State will thereafter have no adequate laws for the conservation of these natural resources and as no adequate provision now exists to effect conservation in the refining of crude petroleum oil, creates an emergency and an imperative public necessity that the Constitutional Rule requiring that bills be read on three several days in each House be suspended, and such Rule is hereby suspended and this Act shall take effect and be in force from and after its passage, and it is so enacted."

(Mr. Thornton in the Chair.)

Mr. Mays raised the following point of order, to House Bill No. 851:

I raise the point of order that House Bill No. 851 seeks to revive and continue all the provisions of Chapter 76, Acts of the Forty-fifth Legislature by reference to Title by saying

all other Sections shall remain in full force and effect—A direct violation of Section 36, Article 3 of the Constitution which says a law cannot be revived or amended by reference to its Title but must be re-enacted and printed in full.

The Chair overruled the point of order.

Question—Shall the amendment by Mr. Bond be adopted?

#### HOUSE BILL NO. 92 WITH SENATE AMENDMENTS

Mr. Hull called up from the Speaker's table, with Senate amendments, for consideration of the amendments,

H. B. No. 92, A bill to be entitled "An Act amending Article 2618 of the Revised Civil Statutes of 1925, changing the status of John Tarleton Agricultural College from a Junior College to a standard four-year college, and providing for a course of study for said College; and amending Article 2620 of the Revised Civil Statutes of 1925, changing the name of North Texas Junior Agricultural, Mechanical and Industrial College at Arlington to the name of North Texas Agricultural College, and placing said school under the Board of Directors of the Agricultural and Mechanical College of Texas; and amending Article 2621 of the Revised Civil Statutes of 1925, changing the status of said junior college to a standard four-year college, and providing for a course of study for the same; and expressly repealing Articles 2622 and 2623 of the Revised Civil Statutes of 1925, and declaring an emergency."

The Chair laid the bill before the House, with the Senate amendments.

Mr. Hull moved that the House concur in the Senate amendments.

Mr. Wood moved, as a substitute motion, that the House do not concur in the Senate amendments, and that a Conference Committee be requested to adjust the differences between the two Houses on the bill.

Question—Shall the substitute motion by Mr. Wood prevail?

(Speaker in the Chair.)

#### BILL SIGNED BY THE SPEAKER

The Speaker signed, in the presence of the House, after giving due notice thereof, and its caption had been read, the following enrolled bill:

H. B. No. 350, "An Act to amend Article 198, Title 8, Revised Civil Statutes of 1925, and declaring an emergency."

#### RECESS

Mr. Keith moved that the House adjourn until 10:00 o'clock a. m., tomorrow.

Mr. Bond moved that the House recess until 2:30 o'clock p. m., today.

Question first recurring on the motion to adjourn, yeas and nays were demanded.

The motion to adjourn was lost by the following vote:

#### Yeas—21

Blankenship	McFarland
Bradbury	Morris
Colquitt	Nicholson
Donaghey	Pace
Hardeman	Piner
Heflin	Schuenemann
Holland	Skiles
Isaacks	Smith of Frio
Keith	Waggoner
Loggins	Winfree
McDonald	

#### Nays—110

Allen	Davis of Jasper
Allison	Davis of Upshur
Alsup	Dean
Bailey	Dickison
Baker	Dickson
of Fort Bend	Faulkner
Bell	Ferguson
Bond	Fielden
Boyd	Fuchs
Boyer	Galbreath
Bradford	Gilmer
Bray	Gordon, Mrs.
Bridgers	Hale
Broadfoot	Hamilton
Brown of Cherokee	Hankamer
Brown	Hardin
of Nacogdoches	Harp
Bundy	Harper
Burkett	Harrell of Bastrop
Burney	Harrell of Lamar
Cauthorn	Harris
Chambers	Hartzog
Clark	Howard
Cleveland	Howington
Cockrell	Hull
Coleman	Hunt
Colson, Mrs.	Johnson of Tarrant
Cornett	Kennedy
Corry	Kern
Crossley	Kerr
Daniel	Kinard



King	Segrist
Langdon	Smith of Hopkins
Lehman	Smith
Lock	of Matagorda
London	Spencer
Mays	Stinson
McAlister	Stoll
McDaniel	Talbert
McMurry	Tarwater
McNamara	Taylor
Mohrmann	Tennant
Monkhouse	Thornberry
Montgomery	Thornton
Newell	Turner
Oliver	Vale
Petsch	Vint
Pevehouse	Voigt
Reader of Bexar	Weldon
Reader of Erath	Wells
Reaves	Westbrook
Reed	White
Rhodes	Wilson
Roach	Wood
Roberts	Worley
Robinson	Wright
Russell	

## Absent

Anderson	Leonard
Baker of Grayson	Leyendecker
Celaya	Little
Derden	Pope
Dwyer	Ragsdale
Felty	Riviere
Goodman	Shell
Johnson of Ellis	

## Absent—Excused

Dowell	Kersey
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The motion of Mr. Bond prevailed, and the House, accordingly, at 12:20 o'clock p. m., took recess until 2:30 o'clock p. m., today.

## AFTERNOON SESSION

The House met at 2:30 o'clock p. m., and was called to order by Speaker Morse.

## LEAVES OF ABSENCE GRANTED

(By unanimous consent)

Mr. Holland was granted leave of absence for this afternoon, on account of illness in his family, on motion of Mr. Donaghey.

Mr. Derden was granted leave of absence for this afternoon, on account of important business, on motion of Mr. Skiles.

Mr. Piner was granted leave of absence for this afternoon, on account of important business, on motion of Mr. Hale.

## EXTENDING INVITATION TO MEMBERS OF THE HOUSE

In accordance with the provisions of House Simple Resolution No. 193, providing for an address to extend an invitation to Members of the House, the Speaker presented Honorable James M. Heflin, who introduced Mr. Meredith H. James to the House.

Mr. James then addressed the House, inviting the Members of the House to attend the annual Gridiron Dinner of the Salesmanship Club of Houston to be held April 29, at the Rice Hotel in Houston.

On motion of Mr. Alsup, the invitation was unanimously accepted.

## BILLS ORDERED NOT PRINTED

(By unanimous consent)

On motion of Mr. Brown of Cherokee, House Bill No. 913 was ordered not printed.

On motion of Mr. Little, Senate Bill No. 263 was ordered not printed.

## CONSIDERATION OF SENATE AMENDMENTS TO HOUSE BILL NO. 92

The House resumed consideration of Senate amendments to House Bill No. 92, with motion by Mr. Hull, to concur in the Senate amendments, and motion by Mr. Wood, that the House do not concur in the Senate amendments, and that a Conference Committee be appointed, pending.

Mr. Keith moved that further consideration of House Bill No. 92, and the Senate amendments, be postponed until next April 25.

Mr. Hull moved to table the motion to postpone.

The motion to table was lost.

Mr. McAlister moved, as a substitute motion for the motion by Mr. Keith, that further consideration of House Bill No. 92, and the Senate amendments, be postponed until 11:00 o'clock a. m., tomorrow.

Mr. Alsup moved to table the substitute motion by Mr. McAlister.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—78

Allen	Keith
Alsup	Kennedy
Bailey	Kern
Baker	Kerr
of Fort Bend	Kinard
Baker of Grayson	King
Boyd	Lehman
Bradbury	Leyendecker
Bridgers	Mays
Brown of Cherokee	McDonald
Brown	McFarland
of Nacogdoches	McMurry
Bundy	Mohrmann
Burkett	Montgomery
Cauthorn	Morris
Chambers	Newell
Clark	Nicholson
Coleman	Oliver
Colquitt	Pace
Colson, Mrs.	Pope
Cornett	Reaves
Crossley	Rhodes
Daniel	Riviere
Davis of Jasper	Roach
Davis of Upshur	Roberts
Dean	Robinson
Dickson	Skiles
Donaghey	Smith of Frio
Faulkner	Smith of Hopkins
Ferguson	Spencer
Fuchs	Stoll
Galbreath	Thornberry
Gilmer	Thornton
Goodman	Vint
Hale	Voigt
Hankamer	Waggoner
Hardeman	Weldon
Harp	Westbrook
Harrell of Bastrop	Wood
Hunt	Worley

Nays—48

Allison	Harrell of Lamar
Anderson	Harris
Bell	Hartzog
Blankenship	Howington
Bond	Hull
Boyer	Johnson of Ellis
Bradford	Johnson of Tarrant
Burney	Langdon
Cleveland	Leonard
Cockrell	Little
Corry	Lock
Dickison	Loggins
Fielden	London
Gordon, Mrs.	McAlister
Hamilton	McDaniel
Hardin	McNamara

Monkhouse	Smith
Pevehouse	of Matagorda
Reader of Bexar	Stinson
Reader of Erath	Taylor
Reed	Tennant
Russell	Turner
Schuenemann	Vale
Segrist	Wilson
	Wright

Present—Not Voting

Howard

Absent

Bray	Petsch
Broadfoot	Ragsdale
Celaya	Shell
Dwyer	Talbert
Felty	Tarwater
Harper	Wells
Heflin	White
Isaacks	Winfree

Absent—Excused

Derden	Kersey
Dowell	Piner
Holland	

Mr. Hull moved, as a substitute motion for the motion by Mr. Keith, that further consideration of House Bill No. 92, and the Senate amendments, be postponed until next April 3.

(Mr. Thornton in the Chair.)

Mr. Morris moved the previous question, on the pending motion by Mr. Keith, and the substitute motion by Mr. Hull, and the motion was not seconded.

Mr. Alsup moved to table the substitute motion by Mr. Hull.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—71

Allen	Cauthorn
Alsup	Chambers
Bailey	Clark
Baker	Coleman
of Fort Bend	Colquitt
Baker of Grayson	Colson, Mrs.
Boyd	Cornett
Bradbury	Crossley
Bridgers	Davis of Jasper
Brown of Cherokee	Davis of Upshur
Brown	Dickson
of Nacogdoches	Donaghey
Bundy	Dwyer
Burkett	Faulkner

Fielden	Nicholson
Fuchs	Oliver
Galbreath	Reaves
Gilmer	Riviere
Goodman	Roach
Hale	Roberts
Hardeman	Robinson
Harp	Skiles
Harrell of Bastrop	Smith of Hopkins
Keith	Spencer
Kennedy	Stoll
Kern	Tarwater
Kerr	Thornberry
Kinard	Thornton
King	Vale
Lehman	Vint
Leyendecker	Voigt
Mays	Waggoner
McDonald	Weldon
McFarland	Westbrook
McMurry	Wood
Mohrmann	Worley
Morris	

## Nays—56

Allison	Johnson of Tarrant
Anderson	Langdon
Bell	Leonard
Blankenship	Little
Bond	Lock
Boyer	Loggins
Bradford	London
Bray	McAlister
Burney	McDaniel
Cleveland	McNamara
Cockrell	Monkhouse
Corry	Montgomery
Daniel	Newell
Dean	Pevehouse
Dickison	Reader of Bexar
Ferguson	Reader of Erath
Gordon, Mrs.	Reed
Hamilton	Russell
Hankamer	Schuenemann
Hardin	Segrist
Harrell of Lamar	Smith
Harris	of Matagorda
Hartzog	Stinson
Howard	Taylor
Howington	Tennant
Hull	Turner
Hunt	Wilson
Isaacks	Wright
Johnson of Ellis	

## Absent

Broadfoot	Ragsdale
Celaya	Rhodes
Felty	Shell
Harper	Smith of Frio
Heflin	Talbert
Pace	Wells
Petsch	White
Pope	Winfree

## Absent—Excused

Derden	Kersey
Dowell	Piner
Holland	

Mr. Hull asked unanimous consent, that the date set in the motion by Mr. Keith be changed from April 25 to April 24.

There was no objection offered, and it was so ordered.

Question then recurring on the motion by Mr. Keith, it prevailed.

Mr. Keith moved to reconsider the vote by which the motion to postpone prevailed, and to table the motion to reconsider.

The motion to table prevailed.

## HOUSE BILL NO. 851 ON PASSAGE TO ENGROSSMENT

The House resumed consideration of pending business, same being House Bill No. 851, amending Section 20 of Chapter 76, Acts of the Forty-fourth Legislature, relative to oil proration, on its passage to engrossment.

The bill having been read second time, on this morning, with amendment, by Mr. Bond, pending.

Mr. Boyer raised the following point of order to the amendment by Mr. Bond:

I raise the point of order, on the Bond amendment to House Bill No. 851, that such amendment seeks to amend Section 2 of Chapter 2 of Acts of the Forty-second Legislature, while House Bill No. 851 seeks only to amend Section 20, Chapter 76 of the Acts of the Forty-fourth Legislature, as amended by Section 1, Chapter 15 of the Acts of the Forty-fifth Legislature, therefore showing that such amendment would amend another distinct Section of an Act not sought to be amended in House Bill No. 851.

The Chair sustained the point of order.

House Bill No. 851 was then passed to engrossment.

## HOUSE BILL NO. 851 ON THIRD READING

Mr. Tennant moved that the constitutional rule, requiring bills to be read on three several days, be suspended, and that House Bill No. 851

be placed on its third reading and final passage.

The motion prevailed by the following vote:

## Yeas—121

Allison	Heflin
Alsup	Howard
Anderson	Hull
Bailey	Hunt
Baker	Isaacks
of Fort Bend	Johnson of Tarrant
Baker of Grayson	Kennedy
Bell	Kern
Blankenship	Kerr
Bond	Kinard
Boyd	King
Boyer	Langdon
Bradbury	Lehman
Bradford	Leyendecker
Bray	Little
Bridgers	Lock
Brown of Cherokee	Loggins
Brown	London
of Nacogdoches	McAlister
Bundy	McDaniel
Burkett	McDonald
Cauthorn	McFarland
Celaya	McMurry
Chambers	Mohrmann
Clark	Monkhouse
Cleveland	Montgomery
Cockrell	Newell
Coleman	Nicholson
Colquitt	Oliver
Colson, Mrs.	Pace
Corry	Petsch
Crossley	Pevehouse
Daniel	Pope
Davis of Jasper	Reader of Bexar
Davis of Upshur	Reader of Erath
Dean	Reaves
Dickison	Reed
Dickson	Rhodes
Donaghey	Riviere
Dwyer	Roach
Faulkner	Roberts
Ferguson	Robinson
Fielden	Russell
Fuchs	Schuenemann
Gilmer	Segrist
Goodman	Shell
Gordon, Mrs.	Skiles
Hamilton	Smith of Frio
Hankamer	Smith
Hardeman	of Matagorda
Hardin	Spencer
Harp	Stinson
Harper	Talbert
Harrell of Bastrop	Tarwater
Harrell of Lamar	Taylor
Harris	Tennant
Hartzog	Thornberry

Turner  
Vale  
Voigt  
Waggoner  
White

Wilson  
Winfree  
Wood  
Worley  
Wright

## Nays—14

Allen	McNamara
Cornett	Morris
Galbreath	Smith of Hopkins
Hale	Stoll
Howington	Vint
Keith	Weldon
Mays	Westbrook

## Absent

Broadfoot	Leonard
Burney	Ragsdale
Felty	Thornton
Johnson of Ellis	Wells

## Absent—Excused

Derden	Kersey
Dowell	Piner
Holland	

The Chair then laid House Bill No. 851 before the House on third reading and final passage.

The bill was read third time, and was passed by the following vote:

## Yeas—125

Allison	Colson, Mrs.
Alsup	Corry
Anderson	Crossley
Bailey	Daniel
Baker	Davis of Jasper
of Fort Bend	Davis of Upshur
Bell	Dean
Blankenship	Dickison
Bond	Dickson
Boyd	Donaghey
Boyer	Dwyer
Bradbury	Faulkner
Bradford	Felty
Bray	Ferguson
Bridgers	Fielden
Brown of Cherokee	Fuchs
Brown	Gilmer
of Nacogdoches	Goodman
Bundy	Gordon, Mrs.
Burkett	Hamilton
Cauthorn	Hankamer
Celaya	Hardeman
Chambers	Hardin
Clark	Harp
Cleveland	Harper
Cockrell	Harrell of Bastrop
Coleman	Harrell of Lamar
Colquitt	Harris

Hartzog	Reed
Howard	Rhodes
Hull	Riviere
Hunt	Roach
Isaacks	Roberts
Johnson of Ellis	Robinson
Johnson of Tarrant	Russell
Kennedy	Schuenemann
Kern	Segrist
Kerr	Shell
Kinard	Skiles
King	Smith of Frio
Langdon	Smith
Lehman	of Matagorda
Leyendecker	Spencer
Little	Stinson
Lock	Stoll
Loggins	Talbert
London	Tarwater
McAlister	Taylor
McDaniel	Tennant
McDonald	Thornberry
McFarland	Thornton
McMurry	Turner
Mohrmann	Vale
Monkhouse	Vint
Montgomery	Voigt
Newell	Waggoner
Nicholson	Weldon
Oliver	Westbrook
Pace	White
Pevehouse	Wilson
Pope	Winfree
Reader of Bexar	Wood
Reader of Erath	Worley
Reaves	Wright

## Nays—10

Allen	Keith
Cornett	Mays
Galbreath	McNamara
Hale	Morris
Howington	Smith of Hopkins

## Absent

Baker of Grayson	Leonard
Broadfoot	Petsch
Burney	Ragsdale
Heflin	Wells

## Absent—Excused

Derden	Kersey
Dowell	Piner
Holland	

Mr. Anderson moved to reconsider the vote by which the bill was passed, and to table the motion to reconsider.

The motion to table prevailed.  
(Speaker in the Chair.)

## REQUESTING CERTAIN OPINION OF THE ATTORNEY GENERAL

Mr. Mays moved that the Speaker of the House be requested to obtain an opinion of the Attorney General as to the constitutionality of Senate Bill No. 75.

The motion prevailed.

Mr. Johnson of Tarrant moved to reconsider the vote by which the House requested an opinion of the Attorney General on Senate Bill No. 75.

Mr. Mays moved to table the motion to reconsider.

The motion to table prevailed.

## ADDITIONAL SIGNERS OF HOUSE BILL NO. 9

Mr. Daniel and Mr. Bray were authorized to sign House Bill No. 9, as co-authors of same.

## HOUSE BILL NO. 9 ON SECOND READING

Mr. Daniel moved that the necessary Rules be suspended, for the purpose of taking up, and considering, at this time, House Bill No. 9.

The motion prevailed by the following vote:

Yeas—93

Allison	Fielden
Alsup	Fuchs
Anderson	Galbreath
Baker	Gilmer
of Fort Bend	Goodman
Bell	Gordon, Mrs.
Bond	Hale
Boyer	Hankamer
Bradbury	Hardeman
Bradford	Harper
Bray	Harrell of Bastrop
Bundy	Harrell of Lamar
Burney	Harris
Cauthorn	Hartzog
Clark	Heflin
Cleveland	Howard
Coleman	Howington
Colson, Mrs.	Hunt
Cornett	Isaacks
Corry	Johnson of Ellis
Daniel	Johnson of Tarrant
Davis of Jasper	Kern
Davis of Upshur	Kinard
Dean	Langdon
Donaghey	Lehman
Dwyer	Little
Faulkner	Loggins
Ferguson	Mays

McAlister	Schuenemann
McDonald	Segrist
McFarland	Shell
McMurry	Smith of Frio
McNamara	Smith of Hopkins
Monkhouse	Smith
Montgomery	of Matagorda
Newell	Talbert
Nicholson	Taylor
Oliver	Tennant
Pace	Thornton
Pope	Turner
Ragsdale	Vale
Reader of Bexar	Vint
Reader of Erath	Westbrook
Reaves	White
Riviere	Wilson
Roberts	Winfree
Robinson	Wright
Russell	

## Nays—40

Allen	Leonard
Bailey	Leyendecker
Baker of Grayson	Lock
Blankenship	London
Boyd	Mohrmann
Bridgers	Morris
Brown of Cherokee	Pevehouse
Burkett	Reed
Chambers	Rhodes
Cockrell	Roach
Colquitt	Skiles
Crossley	Spencer
Dickison	Stinson
Felty	Stoll
Hamilton	Thornberry
Harp	Voigt
Keith	Waggoner
Kennedy	Weldon
Kerr	Wood
King	Worley

## Present—Not Voting

Dickson

## Absent

Broadfoot	Hull
Brown	McDaniel
of Nacogdoches	Petsch
Celaya	Tarwater
Hardin	Wells

## Absent—Excused

Derden	Kersey
Dowell	Piner
Holland	

The Speaker then laid before the House, on its second reading and passage to engrossment,

H. B. No. 9, A bill to be entitled "An Act providing the method of

making application to purchase or lease unsurveyed school land, commonly known as vacancies; providing for notice to those whose rights may be affected, and a public hearing; providing a limitation upon the time in which such application must be acted upon and in which suit may be filed to establish the same; validating long established lines and corners and providing for presumption of their correctness in trials involving location of boundaries, and attempts to locate vacancies between surveys long considered to adjoin; placing the burden of proof upon the party asserting such vacancy; giving a preference right to purchase such vacancy to the person or persons claiming the same in good faith regardless of the proximity of such land to wells producing oil or gas at a price dependent on whether or not such vacancy is excess land, and providing that such purchase shall be subject to certain mineral reservations as a free royalty to the State; fixing the time and conditions under which such preference right to purchase may be exercised; repealing all laws or parts of laws in conflict herewith; providing that if a part of this Act shall be held unconstitutional such holding shall not affect the remainder hereof, and declaring an emergency."

The bill was read second time.

Mr. Daniel offered the following committee amendment to the bill:

Amend House Bill No. 9, by striking out all below the enacting clause, and substitute in lieu thereof, the following:

"Be It Enacted by the Legislature of the State of Texas:

Section 1. That Section 6 of House Bill No. 358, being Chapter 271 of the Acts of the Forty-second Legislature, Regular Session, page 452 (1931) be, and the same is, hereby amended so that hereafter the same shall read as follows:

## (a) Definitions:

Wherever the reference is made in this Section to 'the Commissioner', the same shall mean the Commissioner of the General Land Office, or should any agency be created by the Legislature and entrusted with any of the functions herein delegated to the Commissioner of the General Land Office,

then 'Commissioner' shall mean such agency as to the performance of such functions.

Wherever the term 'good faith claimant' or 'claimant' is used in this Section, the same shall mean any person, firm or corporation, occupying or using, or theretofore occupying or using, or whose predecessors in interest, have occupied or used a vacancy with a good-faith belief that the same was included within the boundaries of a survey or surveys previously titled, awarded or sold by the State under circumstances that would at the time the vacancy issue arose have vested title thereto had said area actually been located within said survey or surveys, and whose said boundaries are shown to have been recognized boundaries in the community.

'Vacancy', when used in this Section, means an area of unsurveyed school land not in conflict on the ground with lands previously titled, awarded or sold, which has not been listed on the records of the Land Office as school lands and which on the date of the filing was neither subject to an earlier subsisting application to purchase or lease by a discoverer or claimant nor involved in pending litigation brought by the State to recover the same.

'Applicant', when used in this Section, means any person, other than a good faith claimant, who discovers and files application to purchase or lease a vacancy.

(b) The vacant or unsurveyed land included within this Act shall be subject to sale or lease under the terms of this Section, whether the same shall be within five (5) miles of a well producing oil or gas in commercial quantities or not. On all vacancies sold there shall be a free royalty of 1/16 reserved to the State on all oil and gas production and 1/8 on sulphur or other mineral substances from which sulphur may be produced. Such sales shall provide that the purchaser shall have the right to execute oil, gas and mineral leases on the land without the joinder or approval of the Commissioner, and all bonus money and rentals therefor shall be paid to and be the property of the purchaser, but any and all of such mineral leases shall provide for and reserve to the State the above mentioned free royalty of 1/16 on all oil and gas production and 1/8 on sul-

phur or other mineral substances from which sulphur may be produced. On all vacancies leased by the State, there shall be reserved a 1/8 free royalty on oil, gas and sulphur or other mineral substances from which sulphur may be produced.

(c) Any applicant who claims that a vacancy exists and desires to lease or purchase same shall file in duplicate with the County Surveyor of the county in which any part of the land is situated a written application to purchase or lease, describing the land claimed to be a vacancy, and stating that he desires to purchase or lease same under the provisions of this Act. The application shall also state the names and addresses of all owners or claimants of land or any interest therein and of leases of any character thereon, adjoining, overlapping or including the land claimed to be vacant, so far as the same may be ascertained from the records of the General Land Office, and of the County Clerk of the county in which the land is located and from the tax rolls of such county. The application shall also state the names and addresses of all persons who, from facts known to the applicant, assert any right to said alleged vacant land, and same shall be sworn to and shall state the applicant knows of no other claimants than those listed.

Contemporaneously with the filing of the application, the applicant shall pay to said Surveyor a filing fee of Five (\$5.00) Dollars. The Surveyor shall mark on the original and duplicate the exact hour and date of filing, shall return one application to the applicant and shall record the other in a book to be kept by him for that purpose. The application which is returned to the applicant shall, within ten (10) days after the date of filing with the Surveyor of the County, be filed with the Commissioner who shall note thereon the date of filing. Applicant shall also pay a filing fee of One Hundred (\$100.00) Dollars to the Commissioner. Failure to file the application with the Commissioner within the time fixed, and to pay the filing fee, shall be a waiver of all rights under the application. As between applicants, priority shall date from the time of filing with the Surveyor. In counties which have no County Surveyor, such preliminary filing shall be with the County Clerk and shall

be recorded in a book to be kept for that purpose, but not in the deed records.

The Commissioner shall notify the applicant by letter of the estimate of the cost of proceedings under the application, and, within fifteen (15) days after the date of such letter, the applicant shall make a deposit with the Commissioner of a sufficient sum to cover the estimated cost of all work which may be necessary in order to comply with the request contained in such application. Upon failure to make the deposit as required, all rights under the application shall be lost. In the event such deposit shall prove to be insufficient, the applicant shall be requested by letter to make a further deposit of a sum to be fixed by the Commissioner and, if such additional deposit be not made within fifteen (15) days after the date of such letter, the work shall be discontinued and the application cancelled, and such cancellation shall be so endorsed on the application. Upon cancellation, the right to purchase or lease under such application shall be lost. The deposits provided for in this Section shall be a special trust fund to be used only for the purpose authorized by this Act.

Upon filing of any such application with the Commissioner, and upon the making of required deposit as provided for herein, the Commissioner shall forthwith cause a notice of intention to survey to be mailed to all persons named in the application as interested persons, and at the addresses given therein, and to the Attorney General of Texas. The notices shall be deposited in the Post Office at Austin, Texas, at least ten (10) days prior to the date fixed for the beginning of such survey.

The Commissioner shall appoint a surveyor to make a survey in accordance with the notice. Such surveyor shall be a surveyor licensed by the State, or the County Surveyor of the County in which the land or a part thereof is situated. The fees and expenses to be paid for such work shall be such as may be fixed by law, or, if not so fixed, then such as the Commissioner and the Surveyor may agree upon, but not in excess of such as may be reasonable for the work performed, all of which shall be paid by applicant.

A written report of the survey with field notes describing the land and

the lines and corners so surveyed together with a plat showing the results of such survey shall be filed in the General Land Office within one hundred twenty (120) days from the filing of the application, unless the time be extended by the Commissioner for good cause which shall be stated in writing and filed as a part of the record of the proceedings. The report shall state the names and the Post Office addresses of all persons in possession of the land described in the application, and of all persons found by the surveyor to have or claim any interest therein. Any interested party may at his own expense cause such surveying to be done as he deems desirable.

As soon as the total expense properly charged against the deposit for survey has been determined, the Commissioner shall render a complete statement to applicant for the survey, accompanied by payment of the balance, if any, shown to be remaining in such fund.

Within sixty (60) days after the surveyor has made his report as provided herein, a hearing may be held before the Commissioner on the date fixed in a notice which he shall give to all persons thought to be interested parties and to all persons shown by the record of the proceeding to be interested parties, including the Attorney for the State, to determine whether there is a vacancy or a good faith claimant to said land. At the hearing, the State and such interested party, whether or not he received notice, shall have a right to be heard.

(d) If the Commissioner should decide that the area so alleged to be a vacancy is not vacant, or that it is or may be in conflict with land claimed to be previously patented by the State, or is adversely occupied or used by a good faith claimant, then the said Commissioner shall endorse said application and file with his finding, and shall promptly notify the applicant of this fact by registered mail, and shall file all reports and papers received in connection with said application, and then shall take no further steps with respect to same until the existence or not of the alleged vacant area shall have been determined by a court of competent jurisdiction. Thereupon, the applicant's application, and all preference rights acquired thereby, to buy such alleged vacancy shall become null and



void, unless within a period of ninety (90) days after the mailing of such notice the applicant shall file suit in the District Court where all, or the greater part of, such land is located, against all good faith claimants to the alleged vacant area and any other necessary parties for the purpose of litigating the question of the existence or not of a vacant unsurveyed area.

(e) If, on the contrary, it shall appear to the Commissioner that the alleged vacancy is not in conflict with land previously titled, awarded or sold by the State and is not adversely occupied or used by a good faith claimant the Commissioner shall give prompt notice of such finding to the applicant and to all those who have been previously identified as interested parties, and thereafter subject to the further provisions hereof, such applicant shall have a right for ninety (90) days to purchase or lease such portion of said land as is vacant at the price fixed by the Commissioner for a consideration of not less than One (\$1.00) Dollar per acre with the royalty reservations provided hereinabove in Subsection (b); provided that no such award shall be made by the Commissioner except after a hearing, and provided further that no presumption shall obtain in any litigation involving said area that there is or is not a vacancy, or that there is or is not a good faith claimant to such vacancy, as a result of the action of the Commissioner in this respect.

(f) Any good faith claimant who ascertains that a vacancy exists or that a claimed vacancy may exist upon lands claimed by him may at any time, before ninety (90) days have elapsed after a final decree adjudicating the existence of a vacancy, obtain a preference right to purchase or lease same by applying in writing to the Commissioner for such purchase or lease, and when and after such vacancy has been established, either by concurrence of all parties interested, or by adjudication, such claimant shall be entitled to purchase or lease the said land with the royalty reservations herein provided, effective as of date such application was filed. Such application by a good faith claimant shall be accompanied by a One (\$1.00) Dollar filing fee, by a description of the lands claimed by him in the area in question, and by satisfactory proof that he is a

good faith claimant. An application by a good faith claimant shall never be used in any way as an admission on his part that a vacancy exists. Should there be no pending litigation at the time a good faith claimant files such application, involving the alleged vacancy, it shall be the duty of the Commissioner to grant said application or to refer such application to the Attorney General for investigation and action.

(g) The purchase by any good faith claimant under said preferential right shall inure distributively to the benefit of all owners holding title under him or an interest in the title under which he claims to be a good faith claimant, provided that such co-owners or lessees shall accept the provisions hereinafter set out and contribute their proportionate part of the royalty reserved to the State and the royalty awarded to the applicant. All such sales shall be with a reservation to the State of a perpetual 1/16 free royalty on oil and gas and 1/8 on sulphur, and other mineral substances from which sulphur may be derived. Such reservations shall be deducted distributively and proportionately from the mineral interest of each such owner (including mineral leases, if the area should be under mineral lease), so that the interest acquired by each such claimant shall be 6¼ per cent less in the oil and gas and 12½ per cent less in sulphur than the equivalent of such interest formerly claimed. As a condition to the benefits conferred by this law, it is expressly provided that such claimants receiving patents or awards, or for whose benefits such patents or awards are received, shall recognize the proportionate interests of other owners benefiting by the award preference rights hereby. The consideration for such purchase shall be determined by the Commissioner, but not less than One (\$1.00) Dollar per acre, and without consideration of present or potential mineral value or any improvements thereon, and the State shall retain its right to recover from the party or parties liable therefor the market value, when produced, of all oil, gas or sulphur that may have been produced from such area prior to the effective date of the said patent or award, but against such liability there shall be allowed as an

offset to the operator the actual cost of developing and producing the same.

(h) Where there is a valid subsisting prior filing by an applicant upon the date of the filing of a good faith claimant's application to purchase, under preferential right, then in such patent as shall be issued to the claimant, there shall be added to the free royalty interest reserved to the State and deducted proportionately from good faith claimant's award, as provided in paragraph (g), a free royalty on oil, gas and sulphur, which shall thereupon be awarded by the State to the applicant. The amount of such free royalty shall be 1/24 if the good faith claimant shall have exercised his right to purchase within ninety (90) days after a decision of Commissioner under (d) or (e) hereof, or 1/8 if he shall not have exercised his right until after the adjudication thereof, and in such event, the good faith claimant shall pay all costs of suit and reimburse the applicant for the One Hundred (\$100.00) Dollars filing fee. Should there be no good faith claimant, or should no good faith claimant exercise his preferential right within the time allowed, then the applicant shall be entitled to buy or lease accordingly, as he may have applied, the vacancy applied for by him and found to exist, for not less than One (\$1.00) Dollar per acre and for the other consideration herein provided.

(i) Any application made under prior laws to purchase or lease unsurveyed school land which shall be on file in the office of the Commissioner or with any County Surveyor and which has not been granted upon the effective date of this Act, shall become null, void and of no further effect unless there is then pending a suit or suits involving the questions of whether the land so affected or a part thereof is vacant or unless the Commissioner shall within six (6) months after the effective date hereof grant said application or unless the applicant shall, within ninety (90) days after the end of such six-months period, file an action in the District Court of the county where all or a greater part of such land is located, against the necessary parties for the purpose of litigating the question of the existence or not of a vacant unsurveyed area.

(j) Any person, firm or corpora-

tion aggrieved by any action taken by the Commissioner under the provisions of this law, or with reference to any application to purchase or lease vacancies, may institute suit in the District Court of the county where all, or the greater part of, the land is situated, but not elsewhere, and there try the issues of boundary, title and ownership of any alleged vacancy involved, as well as the issues of the preference rights of such person, firm or corporation, as herein provided. The plaintiff in such suit shall within thirty (30) days after the filing thereof cause a certified copy of the original petition therein to be served by any Sheriff or Constable of Travis County upon the Attorney General of Texas, and the Commissioner, and cause such officer's return showing said service to be filed with the papers in said cause. Whether the Attorney General shall answer or intervene in said cause or shall institute suit in the first instance, following the filing of such application, the venue of all such suits shall be in the county where such land, or the greater part thereof, shall be located. When such litigation shall have been prosecuted to a final judgment, said judgment shall be binding upon the State of Texas. It shall be mandatory for the Attorney General to intervene in behalf of the State in such cases, and the traveling expense for one Assistant Attorney General shall be taxed as costs of court in such suits.

Section 2. That Section 8 of House Bill No. 358, being Chapter 271 of the Acts of the Forty-second Legislature, Regular Session, page 452 (1931) be, and the same is, hereby amended so that hereafter the same shall read as follows:

Lands Subject to Lease: All islands, salt water lakes, bays, inlets, marshes and reefs owned by the State within tidewater limits, and that portion of the Gulf of Mexico within the jurisdiction of Texas, and all unsold public free school land, both surveyed and unsurveyed, shall be subject to lease by the Commissioner to any person, firm or corporation for the production of minerals, except gold, silver, platinum, cinnabar and other metals, that may be therein or thereunder, in accordance with the provisions of Chapter 271, Acts, Forty-second Legislature, as amended, and Subdivision 2, Chapter 4, Title 86, Revised Stat-

utes of 1925, relating to leasing public areas, insofar as same is not in conflict herewith.

Section 3. Nothing in this Act shall affect or apply to filings or applications which are involved in pending litigation upon the effective date hereof, nor to the title to the land involved in any suit to which the State is now a party, nor to any pending suit.

Section 4. In all cases where the area of a tract of land titled, awarded, sold or patented exceeds the quantity called for in the title, award or patent, and where under the existing law the title to all or any part thereof shall or may be affected by the existence of such excess, than any person owning such survey or having an interest therein may pay for such excess acreage at such price as the empowered authority may fix. Any person owning any interest in a survey in which excess acreage exists who desires to pay for such excess acreage shall file with the Land Commissioner a request for an appraisal of the land with a complete description thereof by metes and bounds, together with a statement of the facts pertaining to said survey and said excess, verified by affidavit. Should it appear that such excess actually exists and that the applicant is entitled to the benefits of the law, then the Commissioner shall execute a deed of acquittance covering such land in the name of the original patentee or his assignees with such reservation of minerals or with no mineral reservation, accordingly as may have been the case when the survey was titled or patented. Such transfer shall inure distributively to the benefit of the true and lawful owners of the survey in proportion to their holdings.

Section 5. All laws or parts of laws in conflict herewith are hereby repealed.

Section 6. If any Section, Subsection, or portion of this Act shall be held unconstitutional or invalid, then it is expressly here shown as the intention of the Legislature that each and every part of this Act, and every Subsection hereof, would have been enacted without the enactment of all other parts, or Subsections hereof, so that the invalidation of any portion of this Act shall not affect the validity of the remaining portion hereof.

Section 7. The crowded condition of the calendar and the importance of this proposed legislation vitally affecting Texas land titles creates an emergency and an imperative public necessity that the Constitutional Rule requiring a bill to be read on three several days be, and the same is hereby suspended, and that this Act shall take effect and be in force from and after the date of its passage, and it is so enacted."

Mr. Corry offered the following amendment to the committee amendment:

Amend committee amendment No. 1, to House Bill No. 9, Section "1," Subsection "c," third paragraph, line 4, by striking out "sufficient sum to cover the estimated," and insert in lieu thereof, the following: "A surety bond of One Thousand (\$1,000.00) Dollars, in trust with the Commissioner, to cover any damage claims that may arise, and."

The amendment was adopted.

Mr. Corry offered the following amendment to the committee amendment:

Amend committee amendment No. 1, to House Bill No. 9, Section "1," Subsection "C," second paragraph, line "8," by striking out "One Hundred (\$100.00) Dollars", and inserting in lieu thereof, "Two Hundred (\$200.00) Dollars."

On motion of Mr. Thornton, the amendment was tabled.

Mr. Daniel offered the following amendment to the committee amendment:

Amend committee amendment No. 1, to House Bill No. 9, Section 1, paragraph (b), by striking out all of lines 7, 8, 9 and 10, ending with the words "commercial quantities or not" and substituting in lieu thereof, the following:

"(b) The vacant and unsurveyed land included within this Act shall be subject to sale or lease under the terms of this Section. Any of such land shall be subject to sale to a Good Faith Claimant whether the same shall be within three (3) miles of a well producing oil, gas or other minerals in commercial quantities, or not: but such lands lying within three (3) miles of a well producing oil or gas in commercial quantities shall not be subject to sale to any other person than a Good Faith Claim-

ant, and where there is no Good Faith Claimant, or such claimant fails to exercise his preferential right, lands within such three (3) mile distance shall be subject to lease only, and all of such leases shall reserve to the State at least a 1/8 free royalty on oil, gas, sulphur and other minerals."

DANIEL,  
SMITH of Matagorda.

The amendment was adopted.

Mr. Hardeman offered the following amendment to the committee amendment:

Amend committee amendment No. 1 to House Bill No. 9, Section (b), line 14, but adding after the word "produced," and before the sentence beginning with "Such sales," the following sentence:

"Such royalty to the State shall be (1/8) one-eighth on oil and gas and (1/6) one-sixth on sulphur and other mineral substances when a good faith claimant purchases after adjudication of the vacancy by court judgment, or where such good faith claimant fails to exercise his preference right to purchase within the time hereinafter specified."

HARDEMAN,  
DANIEL,  
TALBERT.

The amendment was adopted.

Mr. Hardeman offered the following amendment to the committee amendment:

Amend committee amendment No. 1 to House Bill No. 9, page 5, line 8, by striking out the words "or is adversely occupied or used by a good faith claimant."

HARDEMAN,  
TALBERT.

(Mr. Thornton in the Chair.)

Mr. Hankamer moved to table the amendment.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—75

Allison	Bond
Alsup	Boyer
Bailey	Bradford
Baker	Bray
of Fort Bend	Brown
Bell	of Nacogdoches

Bundy	Leyendecker
Burkett	Little
Burney	Loggins
Cauthorn	Mays
Celaya	McAlister
Clark	McFarland
Colquitt	McMurry
Colson, Mrs.	McNamara
Corry	Monkhouse
Crossley	Nicholson
Daniel	Oliver
Davis of Jasper	Pace
Davis of Upshur	Pevehouse
Dean	Pope
Donaghey	Reader of Bexar
Dwyer	Reader of Erath
Faulkner	Riviere
Ferguson	Roach
Gilmer	Robinson
Goodman	Schuenemann
Gordon, Mrs.	Shell
Hamilton	Smith of Frio
Hankamer	Smith of Hopkins
Hardin	Smith
Harper	of Matagorda
Hartzog	Taylor
Howard	Vale
Johnson of Ellis	Vint
Johnson of Tarrant	Wells
Kern	Westbrook
Kerr	Wilson
Kinard	Winfree
Leonard	Wright

Nays—58

Allen	King
Baker of Grayson	Lehman
Blankenship	Lock
Bradbury	London
Bridgers	McDaniel
Broadfoot	McDonald
Brown of Cherokee	Mohrmann
Chambers	Montgomery
Cockrell	Morris
Coleman	Newell
Cornett	Reaves
Dickison	Reed
Dickson	Rhodes
Felty	Roberts
Fielden	Russell
Fuchs	Segrist
Galbreath	Skiles
Hale	Spencer
Hardeman	Stinson
Harp	Stoll
Harrell of Bastrop	Talbert
Harrell of Lamar	Tennant
Harris	Thornberry
Heflin	Voigt
Howington	Waggoner
Hunt	Weldon
Isaacks	White
Keith	Wood
Kennedy	Worley

## Absent

Anderson	Petsch
Boyd	Ragsdale
Cleveland	Tarwater
Hull	Thornton
Langdon	Turner

## Absent—Excused

Derden	Kersey
Dowell	Piner
Holland	

Mr. Lock offered the following amendment to the bill:

Amend House Bill No. 9, by striking out the enacting clause.

On motion of Mr. Smith of Matagorda, the amendment was tabled.

Mr. Worley moved that further consideration of House Bill No. 9 be postponed until Wednesday, April 5.

Mr. Mays raised a point of order, on further consideration of the motion by Mr. Worley, on the ground that the House cannot postpone a House bill to a Senate bill day.

The Chair sustained the point of order.

Mr. Worley then moved that further consideration of House Bill No. 9 be postponed until Friday, April 7.

Mr. Smith of Matagorda moved to table the motion to postpone.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

## Yeas—76

Allison	Galbreath
Alsup	Gilmer
Bell	Goodman
Bond	Gordon, Mrs.
Boyer	Hamilton
Bradbury	Hankamer
Bradford	Hardeman
Bray	Hardin
Bundy	Harper
Burkett	Harrell of Bastrop
Cauthorn	Harrell of Lamar
Celaya	Harris
Cleveland	Hartzog
Colson, Mrs.	Heflin
Corry	Howard
Crossley	Howington
Daniel	Hull
Davis of Upshur	Hunt
Dean	Isaacks
Donaghey	Johnson of Ellis
Faulkner	Johnson of Tarrant
Fuchs	Kern

Kerr	Riviere
Kinard	Roach
Leonard	Robinson
Leyendecker	Schuenemann
Little	Shell
Loggins	Smith of Frio
Mays	Smith of Hopkins
McAlister	Smith
McMurry	of Matagorda
McNamara	Taylor
Monkhouse	Vale
Montgomery	Vint
Nicholson	Voigt
Pace	Wilson
Pope	Winfree
Reader of Bexar	Wright
Reader of Erath	

## Nays—58

Allen	McDonald
Bailey	McFarland
Baker	Mohrmann
of Fort Bend	Morris
Blankenship	Newell
Boyd	Oliver
Bridgers	Pevehouse
Broadfoot	Reaves
Brown of Cherokee	Reed
Burney	Rhodes
Chambers	Roberts
Cockrell	Russell
Coleman	Segrist
Cornett	Skiles
Davis of Jasper	Spencer
Dickison	Stinson
Dickson	Stoll
Felty	Talbert
Ferguson	Tarwater
Fielden	Tennant
Hale	Thornberry
Harp	Turner
Keith	Waggoner
Kennedy	Weldon
King	Wells
Langdon	Westbrook
Lehman	White
Lock	Wood
London	Worley
McDaniel	

## Absent

Anderson	Colquitt
Baker of Grayson	Dwyer
Brown	Petsch
of Nacogdoches	Ragsdale
Clark	Thornton

## Absent—Excused

Derden	Kersey
Dowell	Piner
Holland	

## REASON FOR VOTE

I voted "nay" on the motion to table because I want to vote on a bill that is fair both to the landowner and the permanent school fund.

SPENCER.

(Speaker in the Chair.)

Mr. Mays moved the previous question on the pending amendment and the engrossment of House Bill No. 9, and the motion was duly seconded.

Question recurring on the motion for the main question, it was lost.

Mr. Spencer offered the following substitute for the committee amendment:

Amend committee amendment No. 1, to House Bill No. 9, by striking out all below the enacting clause and substituting in lieu thereof, the following:

"Section 1. That Section 4 of Chapter 271, Acts of the Regular Session of the Forty-second Legislature be, and the same is hereby amended, so that hereafter the same shall read as follows:

"All lands sold shall be without condition of settlement and with the reservation of all minerals, subject to lease for oil and gas purposes by the landowner as agent of the State under the provisions of what is known as the Relinquishment Act, the same being Article 5367, et seq. of the Revised Civil Statutes of 1925, which reservation of minerals shall be expressed in the award and patent, the minimum price to be fixed by the Commissioner or other designated authority, and in no case to be less than Two (\$2.00) Dollars per acre. Provided, that one-eighth (1/8) of all sulphur and other mineral substances from which sulphur may be derived or produced, shall be reserved as a free royalty to the State.

Sec. 2. That Section 6 of Chapter 271, Acts of the Regular Session of the Forty-second Legislature be, and the same is hereby amended so that hereafter the same shall read as follows:

(a) Any one desiring to buy any of the unsurveyed land included in this Act not situated within five (5) miles of a producing oil or gas well, shall file with the Commissioner of the General Land Office an application in duplicate for survey, describing the land in such manner as will enable the Commissioner, or a sur-

veyor, to identify it and pay to the Commissioner a fee of Ten (\$10.00) Dollars for filing and recording one copy of said application in the Land Office and the other with the County Clerk in the county where said land is located, said deposit to be used also for citing the claimant or claimants of the land, if any, and the adjoining owners, as the tax rolls may disclose the names of such claimant or adjoining owners. The Commissioner or other designated authority shall immediately send by registered mail, or hand to each such claimant or adjoining owner, a citation containing a description of the land sought to be surveyed and fix a date for survey. The survey shall be made and the field notes filed in the Land Office within one hundred and twenty (120) days from the filing of the application with the Commissioner. If the area is found by the Commissioner, or other designated authority, to be unsurveyed and subject to sale, he shall value the land and give notice of the valuation to the applicant who may purchase the land on the same terms and conditions as prescribed by the law and the regulations for the sale of surveyed land; provided, if the area shall be in the enclosure of another person claiming it in good faith, or occupied as a home by another, such holder or occupant shall have a preference right for a period of sixty (60) days after receipt of the notice above prescribed to have the land surveyed on his own application to the Commissioner; provided that the person or persons exercising such preference right shall return to the first applicant all sums expended by him in connection with his application to purchase. In the event the person or persons given the above preference right fails or refuses to exercise the same within the time prescribed, said preference right shall be deemed to have been waived.

(b) Anyone desiring to lease for oil and gas any of the unsurveyed school land included in this Act, shall file in duplicate with the Commissioner an application for survey with a view to lease the land, which application for survey shall describe the land in such manner as to enable the Commissioner or a surveyor, to identify it; one copy of said application to be filed in the General Land Office and the other copy to be forwarded by the Commissioner, together with a

fee therefor, to the County Clerk of the county in which the land is located, for recording. At the time said application is filed in the General Land Office it shall be accompanied by a fee of One Hundred (\$100) Dollars, which shall be used by the Commissioner to pay the expense incident to the filing of said application, and such other expense as may be incurred by the Commissioner in determining the existence or non-existence of the described area as unsurveyed school land. Said applicant shall have one hundred twenty (120) days from and after the filing of said application with the Commissioner to have said land surveyed, and return to and file in the General Land Office a report and field notes covering said unsurveyed area. In the event said field notes and report discloses a previously unsurveyed area, the applicant at the time of filing the same shall furnish to the Commissioner the names and addresses of all claimants and adjoining owners, as the tax rolls may disclose the names of such claimants or adjoining owners, and the Commissioner shall send by registered mail or hand to each such claimant or adjoining owner, a citation containing a description of the area sought to be leased, and fix a date for a hearing, at which hearing all interested parties in person or through counsel shall have the opportunity to produce witnesses and be heard with respect to the existence or non-existence of said area as school land. After the conclusion of said hearing the Commissioner shall have the authority to appoint a surveyor of his own selection to make an investigation of the facts upon the ground and report back to the Commissioner in such period of time as the Commissioner may designate, if the Commissioner has any doubt in his mind as to the existence of said area as vacant unsold school land. The expense and compensation of the surveyor so appointed shall be paid first out of the fee deposited, and if this be insufficient the Commissioner may require the applicant to deposit such additional sum as will be necessary to cover such expense.

(c) Any person occupying, using or enjoying any portion of said area in the good faith belief that the same was part of a survey previously awarded or patented by the State, shall, at any time, when said area is

within five (5) miles of a well producing oil and gas in commercial quantities, have the preference right to purchase so much of the surface of said area as said person may have been occupying, using or enjoying in the good faith belief that the same was a part of a survey previously awarded or patented by the State at a minimum price of One (1.00) Dollar per acre, subject to the rights of the State's lessees and sub-lessees to develop said area for mineral purposes, which rights shall be stated and reserved in any patent issues covering the surface estate in and to said area, provided that where the preference right hereinbefore provided is asserted prior to the issuance of a lease by the Commissioner, the good faith claimant shall be entitled, in addition to said surface rights, to a free 1/8 royalty interest which shall be reserved to said good faith claimant in the patent and award issued, and in the oil and gas lease issued to the prior applicant. This 1/8 shall be in addition to the consideration provided for to the State in Section 10, of Chapter 271, Acts of the Regular Session of the Forty-second Legislature.

Sec. 3. That Section 8, of Chapter 271, Acts of the Regular Session of the Forty-second Legislature be, and the same is hereby amended so that hereafter the same shall read as follows:

Sec. 8. Lands subject to lease: All islands, salt water lakes, bays, inlets, marshes and reefs owned by the State within tide water limits, and that portion of the Gulf of Mexico within the jurisdiction of Texas, and all unsold public free school land, both surveyed and unsurveyed, shall be subject to lease by the Commissioner to any person, firm or corporation for the production of the minerals, except gold, silver, platinum, cinnabar and other metals, that may be therein or thereunder, in accordance with the provisions of this Act and subdivision 2, Chapter 4, Title 86, Revised Statutes of 1925, relating to leasing public areas, in so far as same is not in conflict herewith.

Any person who discovers an unsurveyed area of school land which has not been listed on the records of the Land Office as school land, and is not in actual conflict on the ground with lands previously sold or appropriated, may, by complying with the other provisions of this law, have the

same surveyed, and after the field notes thereof have been returned to the Land Office, shall have a preference right for sixty (60) days, after receipt of notice from the Land Commissioner of the approval of said field notes, to purchase a mineral lease thereon, at the minimum price fixed by the Land Commissioner, in addition to the other consideration provided herein.

Sec. 4. That Chapter 271, Acts of the Regular Session of the Forty-second Legislature be, and the same is hereby amended so as to add thereto Section 12a, which said Section 12a shall read as follows:

Sec. 12a. No lease executed by any agency of the State shall carry an exploratory term of more than five (5) years, and no lease executed by an owner or owners of the soil under what is commonly known as the Relinquishment Act shall be effective until approved by the Commissioner or other authority empowered to approve such lease, which lease and the approval thereof shall be made of record in the Land Office.

No such lease executed after the effective date hereof shall be binding upon the State unless it recites the actual and true consideration paid or promised therefor. All leases heretofore executed by the owner or owners of the soil under the Relinquishment Act, or certified copies thereof, from the County Clerk's records, shall be filed with the Land Commissioner within six (6) months from the effective date thereof, or such leases shall become null and void.

Section 5. If any provision of this Act shall be declared unconstitutional, the remaining provisions shall not be affected thereby but shall remain in full force and effect.

Section 6. The fact that existing laws do not afford adequate protection to the public school lands, or to the land owner, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted."

SPENCER,  
BOYD.

Question — Shall the substitute amendment, by Mr. Spencer, be adopted?

## MESSAGE FROM THE SENATE

Austin, Texas, March 28, 1939.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House the Senate has adopted the following:

H. C. R. No. 70, Authorizing the Enrolling Clerk of the House to make certain correction to House Bill No. 711.

S. C. R. No. 27, Suspending Joint Rules of the House and Senate in so far as they apply to Senate Joint Resolution No. 12.

Respectfully,

BOB BARKER,

Secretary of the Senate.

## SUSPENDING CERTAIN JOINT RULES

The Speaker laid before the House, for consideration, at this time,

S. C. R. No. 27, Suspending Joint Rules of the House and Senate in so far as they apply to Senate Joint Resolution No. 12.

Be It Resolved by the Senate of Texas, the House of Representatives concurring, That that portion of the Joint Rules prohibiting consideration of Senate bills and resolutions by the Senate on Wednesday and Thursday of each week be suspended insofar as such Rules apply to Senate Joint Resolution No. 12.

The resolution was read second time.

Mr. Reed offered the following amendment to the resolution:

Amend Senate Concurrent Resolution No. 27, by adding the words "until Senate Joint Resolution No. 12 is finally disposed of".

REED,  
KEITH.

The amendment was adopted.

The resolution, as amended, was then adopted by the following vote:

Yeas—131

Allen	Blankenship
Allison	Bond
Alsup	Boyer
Anderson	Bradbury
Bailey	Bradford
Baker	Bray
of Fort Bend	Bridgers
Baker of Grayson	Broadfoot



Brown of Cherokee	Leonard
Brown	Leyendecker
of Nacogdoches	Little
Bundy	Lock
Burkett	Loggins
Burney	London
Cauthorn	Mays
Celaya	McAlister
Chambers	McDaniel
Clark	McDonald
Cleveland	McFarland
Cockrell	McMurry
Coleman	McNamara
Colquitt	Mohrmann
Colson, Mrs.	Monkhouse
Cornett	Montgomery
Crossley	Newell
Daniel	Nicholson
Davis of Jasper	Oliver
Davis of Upshur	Pace
Dean	Petsch
Dickison	Pevehouse
Dickson	Pope
Donaghey	Reader of Erath
Dwyer	Reaves
Faulkner	Reed
Felty	Rhodes
Ferguson	Riviere
Fuchs	Roach
Galbreath	Roberts
Gilmer	Robinson
Gordon, Mrs.	Russell
Hale	Schuenemann
Hamilton	Segrist
Hankamer	Shell
Hardeman	Smith of Frio
Hardin	Smith of Hopkins
Harp	Smith
Harper	of Matagorda
Harrell of Bastrop	Spencer
Harrell of Lamar	Stinson
Harris	Stoll
Hartzog	Talbert
Heflin	Tarwater
Howard	Taylor
Howington	Tennant
Hull	Thornton
Hunt	Turner
Isaacks	Vale
Johnson of Ellis	Voigt
Johnson of Tarrant	Waggoner
Keith	Weldon
Kennedy	Wells
Kern	White
Kerr	Wilson
Kinard	Winfree
King	Wood
Langdon	Worley
Lehman	Wright

Nays—7

Bell	Corry
Boyd	Morris

Thornberry	Westbrook
Vint	
	Absent
Fielden	Reader of Bexar
Goodman	Skiles
Ragsdale	
	Absent—Excused
Derden	Kersey
Dowell	Piner
Holland	

Mr. Thornton moved to reconsider the vote by which the resolution was adopted, and to table the motion to reconsider.

The motion to table prevailed.

#### HOUSE BILL NO. 687 WITH SENATE AMENDMENTS

Mr. Riviere called up from the Speaker's table, with Senate amendments, for consideration of the amendments,

H. B. No. 687, A bill to be entitled "An Act giving civil jurisdiction to the Criminal District Court of Jefferson County of suits and causes in matters of divorce, dependent and delinquent children, adoption and habeas corpus in civil proceedings; providing for the transfer and trial of such causes and the duties of the officers of the Court; providing for the civil procedure therein in accordance with the general civil statutes and Article 2092, Revised Civil Statutes of Texas, of 1925, and providing for appeals in civil matters to the Court of Civil Appeals for the Ninth Supreme Judicial District of Texas, and declaring an emergency."

The Speaker laid the bill before the House, with the Senate amendments.

On motion of Mr. Riviere, the House concurred in the Senate amendments by the following vote:

Yeas—128

Allen	Boyer
Allison	Bradbury
Alsup	Bradford
Anderson	Bray
Bailey	Brown
Baker	of Nacogdoches
of Fort Bend	Bundy
Baker of Grayson	Burkett
Bell	Cauthorn
Blankenship	Celaya
Bond	Chambers
Boyd	Clark

Cleveland	London
Cockrell	Mays
Coleman	McAlister
Colquitt	McDaniel
Colson, Mrs.	McDonald
Cornett	McFarland
Corry	McMurry
Crossley	McNamara
Daniel	Mohrmann
Davis of Jasper	Monkhouse
Davis of Upshur	Montgomery
Dean	Morris
Dickison	Newell
Dickson	Nicholson
Donaghey	Oliver
Faulkner	Pace
Felty	Petsch
Ferguson	Pevehouse
Fuchs	Pope
Gilmer	Reader of Erath
Goodman	Reaves
Gordon, Mrs.	Riviere
Hale	Roach
Hamilton	Roberts
Hardeman	Robinson
Hardin	Russell
Harp	Schuenemann
Harper	Segrist
Harrell of Bastrop	Shell
Harrell of Lamar	Skiles
Harris	Smith of Frio
Hartzog	Spencer
Heflin	Stinson
Howard	Stoll
Howington	Talbert
Hull	Tarwater
Hunt	Taylor
Isaacks	Tennant
Johnson of Ellis	Thornberry
Johnson of Tarrant	Thornton
Keith	Vale
Kennedy	Vint
Kern	Voigt
Kerr	Waggoner
Kinard	Weldon
King	Wells
Langdon	Westbrook
Lehman	White
Leonard	Wilson
Leyendecker	Winfree
Little	Wood
Lock	Worley
Loggins	Wright

## Absent

Bridgers	Ragsdale
Broadfoot	Reader of Bexar
Brown of Cherokee	Reed
Burney	Rhodes
Dwyer	Smith of Hopkins
Fielden	Smith
Galbreath	of Matagorda
Hankamer	Turner

## Absent—Excused

Derden	Kersey
Dowell	Piner
Holland	

RELATIVE TO HOUSE JOINT  
RESOLUTION NO. 16

Mr. Petsch moved that House Joint Resolution No. 16, set for special order at 10:30 o'clock a. m., tomorrow, be postponed until 10:30 o'clock a. m., next Tuesday.

The motion was lost by the following vote:

## Yeas—41

Baker	Isaacks
of Fort Bend	Keith
Bell	London
Boyd	McFarland
Bradbury	McMurry
Broadfoot	Monkhouse
Brown of Cherokee	Petsch
Brown	Reaves
of Nacogdoches	Roach
Cauthorn	Schuenemann
Chambers	Skiles
Cleveland	Smith
Coleman	of Matagorda
Cornett	Talbert
Davis of Jasper	Tennant
Faulkner	Thornberry
Gilmer	Vint
Hardeman	Waggoner
Harp	Weldon
Harris	Westbrook
Heflin	Wood
Hunt	Worley

## Nays—88

Allen	Davis of Upshur
Allison	Dean
Alsup	Dickson
Anderson	Dickson
Bailey	Donaghey
Baker of Grayson	Felty
Blankenship	Ferguson
Bond	Fuchs
Boyer	Galbreath
Bradford	Gordon, Mrs.
Bray	Hale
Bundy	Hamilton
Burkett	Hankamer
Burney	Hardin
Celaya	Harper
Clark	Harrell of Bastrop
Cockrell	Hartzog
Colquitt	Howard
Colson, Mrs.	Howington
Corry	Hull
Crossley	Johnson of Ellis
Daniel	Johnson of Tarrant

Kennedy	Reader of Erath
Kern	Reed
Kerr	Rhodes
Kinard	Riviere
King	Roberts
Langdon	Robinson
Lehman	Russell
Leyendecker	Segrist
Little	Smith of Frio
Lock	Smith of Hopkins
Loggins	Spencer
McAlister	Stinson
McDaniel	Stoll
McDonald	Tarwater
McNamara	Taylor
Mohrmann	Thornton
Montgomery	Vale
Newell	Wells
Nicholson	White
Pace	Wilson
Pevehouse	Winfree
Pope	Wright

## Absent

Bridgers	Morris
Dwyer	Oliver
Fielden	Ragsdale
Goodman	Reader of Bexar
Harrell of Lamar	Shell
Leonard	Turner
Mays	Voigt

## Absent—Excused

Derden	Kersey
Dowell	Piner
Holland	

BILL ORDERED PRINTED IN  
MIMEOGRAPH FORM

Mr. Leonard moved that House Bill No. 908 be ordered printed in mimeograph form, and not otherwise printed.

Mr. Keith moved, as a substitute motion, that House Bill No. 908 be ordered printed in mimeograph form, and also printed.

The substitute motion by Mr. Keith was lost.

Mr. Davis of Upshur moved to table the motion by Mr. Leonard.

The motion to table was lost.

Question then recurring on the motion by Mr. Leonard, it prevailed.

BILL AND RESOLUTION SIGNED  
BY THE SPEAKER

The Speaker signed, in the presence of the House, after giving due notice thereof, and their captions had been read severally, the following enrolled bill and resolution:

H. C. R. No. 30, Concerning certain property of the Houston Light Guard Veterans Association, Inc.

H. B. No. 701, "An Act to amend Article 1334, Revised Statutes, 1925, so as to authorize facsimile signatures and seals on stock certificates signed by a transfer agent and registrar, and prescribing the conditions for the use of such facsimiles, and declaring an emergency."

## HOUSE BILLS ON FIRST READING

Mr. Worley asked unanimous consent, to introduce, at this time, and have placed on first reading, House Bill No. 916.

There was no objection offered.

The Speaker then laid the bill before the House, it was read first time, and referred to the appropriate committee, as follows:

By Mr. Worley:

H. B. No. 916, A bill to be entitled "An Act authorizing the owner of real estate to redeem the same at any time before the rights of the third parties are involved, to redeem such real estate by the payment of all taxes, penalties, interest, and costs."

Referred to the Committee on Public Lands and Buildings.

Mr. Smith of Hopkins asked unanimous consent, to introduce, at this time, and have placed on first reading, House Bill No. 917.

There was no objection offered.

The Speaker then laid the bill before the House, it was read first time, and referred to the appropriate committee, as follows:

By Mr. Smith of Hopkins and Mr. Alsop:

H. B. No. 917, A bill to be entitled "An Act making an emergency appropriation to supplement an appropriation made by the Regular Session of the Forty-fifth Legislature for the fiscal year ending August 31, 1939, found on page 1368, Acts of the Regular Session of the Forty-fifth Legislature; said appropriation is to pay the salaries and other expenses of the inspection work incident to the eradication of the sweet potato weevil, and declaring an emergency."

Referred to the Committee on Appropriations.

Mr. Schuenemann asked unanimous consent, to introduce, at this time, and have placed on first reading, House Bill No. 918.

There was no objection offered.

The Speaker then laid the bill before the House, it was read first time, and referred to the appropriate committee, as follows:

By Mr. Schuenemann:

H. B. No. 918, A bill to be entitled "An Act to provide a more adequate and equitable salary for the County Superintendents of Public Instruction in certain counties, repealing all laws and parts of laws in conflict, and declaring an emergency."

Referred to the Committee on Counties.

#### HOUSE JOINT RESOLUTION ON FIRST READING

Mr. McFarland asked unanimous consent, to introduce, at this time, and have placed on first reading, House Joint Resolution No. 41.

There was no objection offered.

The Speaker then laid the resolution before the House, it was read first time, and referred to the appropriate committee, as follows:

By Mr. McFarland, Mr. Burkett and Mr. Goodman:

H. J. R. No. 41, Proposing an amendment to Section 1, Article 8 of the Constitution of the State of Texas.

Referred to the Committee on Constitutional Amendments.

#### RECESS

Mr. Reed moved that the House adjourn until 10:00 o'clock a. m., tomorrow.

Mr. Heflin moved that the House recess until 10:00 o'clock a. m., tomorrow.

The motion of Mr. Heflin prevailed, and the House, accordingly, at 5:40 o'clock p. m., took recess until 10:00 o'clock a. m., tomorrow.

#### APPENDIX

##### STANDING COMMITTEE REPORTS

The following committees have filed favorable reports on bills and resolutions, as follows:

Counties: House Bills Nos. 876, 881, 882, 883, 890, 891 and 914; Senate Bill No. 263.

Judiciary: House Bills Nos. 436, 493, 762 and 779; House Concurrent Resolution No. 58.

Criminal Jurisprudence: House Bills Nos. 434, 443, 538 and 690; Senate Bill No. 107.

Constitutional Amendments: House Joint Resolution No. 1.

Municipal and Private Corporations: House Bills Nos. 402, 492, 832, 833 and 834; Senate Bills Nos. 256, 286 and 325.

Education: House Bill No. 913.

School Districts: House Bill No. 877.

Judicial Districts: Senate Bill No. 335.

Appropriations: House Bill No. 592.

Revenue and Taxation: House Bill No. 908.

The Committee on Criminal Jurisprudence filed an adverse report on House Bill No. 26 and House Bill No. 41.

The Committee on Common Carriers filed an adverse report on House Bill No. 487.

The Committee on Municipal and Private Corporations filed an adverse report on House Bill No. 586.

The Committee on Constitutional Amendments filed an adverse report on House Joint Resolution No. 4, and an adverse report, with a minority favorable report, on House Joint Resolution No. 24.

##### REPORTS OF THE COMMITTEE ON ENGROSSED BILLS

Committee Room,

Austin, Texas, March 27, 1939.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 231, A bill to be entitled "An Act to protect trade-mark own-

ers, distributors and the general public against injurious and uneconomic practices in the distribution of articles of standard quality under a distinguished trade-mark, brand, or name, and to facilitate fair trade; defining certain terms; providing a saving clause, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 28, 1939.  
Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. C. R. No. 69, Memorializing the Congress of the United States of America to appropriate funds under Farm Forestry Acts.

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 28, 1939.  
Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. C. R. No. 71, Memorializing the United States Congress to take action necessary to protect the cotton growers of the South.

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 28, 1939.  
Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. C. R. No. 58, Requesting Supreme Court to promulgate certain District Court Rule.

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 28, 1939.  
Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. C. R. No. 70, Authorizing the

Enrolling Clerk to make certain corrections in House Bill No. 711.

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

## REPORTS OF THE COMMITTEE ON ENROLLED BILLS

Committee Room,

Austin, Texas, March 28, 1939.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 350, "An Act to amend Article 198, Title 8 of the Revised Civil Statutes of Texas of 1925, as amended by Acts, 1927, Fortieth Legislature, page 378, Chapter 225, as amended by Acts, 1929, Forty-first Legislature, page 106, Chapter 51, as amended by Acts, 1932, Forty-second Legislature, Third Called Session, page 103, Chapter 38, as amended by Acts, 1934, Forty-third Legislature, Third Called Session, page 54, Chapter 31; providing for the effective date of this Act, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

DWYER, Acting Chairman.

Austin, Texas, March 27, 1939.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. C. R. No. 47, Urging Congress to pass the appropriation bill for the eradication of the pink boll worm now before the Congress.

Has carefully compared same and finds it correctly enrolled.

DWYER, Acting Chairman.

## SENT TO THE GOVERNOR

March 28, 1939

House Bill No. 350.

House Concurrent Resolution No. 47.

**In Memory of**  
**Reverend R. G. Gill**

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Mr. Westbrook offered the following resolution:

H. S. R. No. 192, In memory of Reverend R. G. Gill.

Whereas, There passed away, the Reverend R. G. Gill, primitive Baptist minister of the Denning Community, San Augustine County, Texas; and

Whereas, He was an old pioneer landmark and a faithful ambassador of God; and

Whereas, The House is fully appreciative of the sterling qualities and long life of usefulness of the Reverend R. G. Gill, who has been a leader in the development of his community, his county, and his State, and we, who are left behind, are inspired by his worthy career, by his comradeship and brotherly love, by his active efforts in behalf of the welfare of Texas; now, therefore, be it

Resolved, That the House of Representatives of the Forty-sixth Legislature does hereby extend to the bereaved relatives of the deceased its sincere sympathy and condolence in the passing of this faithful man, worthy public servant, and distinguished citizen, whose example is in every way worthy of emulation and whose memory is hallowed by all who knew him; and, be it further

Resolved, That when the House adjourns today it do so in respect to his memory and that a copy of this resolution under the seal of the Chief Clerk of the House of Representatives be sent to Mrs. R. G. Gill, widow of the deceased.

The resolution was read second time, and was unanimously adopted.